

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Cancellation of tariff and removal from register by Florida Public Service Commission of IXC Registration No. TI020 issued to Commercial Communications Systems, Inc. for violation of Section 364.336, Florida Statutes.

DOCKET NO. 030755-TI

In re: Cancellation of tariff and removal from register by Florida Public Service Commission of IXC Registration No. TJ192 issued to Promise-Net International, Ltd., Inc. for violation of Section 364.336, Florida Statutes.

DOCKET NO. 030786-TI

In re: Cancellation of tariff and removal from register by Florida Public Service Commission of IXC Registration No. TJ449 issued to Norbel Telecom, Inc. for violation of Section 364.336, Florida Statutes.

DOCKET NO. 030789-TI

In re: Cancellation of tariff and removal from register by Florida Public Service Commission of IXC Registration No. TJ525 issued to Telecom New Zealand Communications (USA) Limited, Inc. for violation of Section 364.336, Florida Statutes.

DOCKET NO. 030943-TI
ORDER NO. PSC-03-1468-PAA-TI
ISSUED: December 23, 2003

DOCUMENT NUMBER-DATE

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ORDER NO. PSC-03-1468-PAA-TI
DOCKETS NOS. 030755-TI, 030786-TI, 030789-TI, 030943-TI
PAGE 2

The following Commissioners participated in the disposition of this matter:

LILA A. JABER, Chairman
J. TERRY DEASON
BRAULIO L. BAEZ
RUDOLPH "RUDY" BRADLEY
CHARLES M. DAVIDSON

NOTICE OF PROPOSED AGENCY ACTION
ORDER CANCELING INTEREXCHANGE CARRIER TARIFFS AND REMOVING NAMES
FROM THE REGISTER INVOLUNTARILY

BY THE COMMISSION:

NOTICE is hereby given by the Florida Public Service Commission that the action discussed herein is preliminary in nature and will become final unless a person whose interests are substantially affected files a petition for a formal proceeding, pursuant to Rule 25-22.029, Florida Administrative Code.

The Division of the Commission Clerk and Administrative Services advised our staff that the entities listed below had not paid the Regulatory Assessment Fees (RAFs) required by Section 364.336, Florida Statutes, and Rule 25-4.0161, Florida Administrative Code, for the year 2002. Also, accrued statutory late payment charges had not been paid. The entities listed below were scheduled to remit their respective RAFs by January 30, 2003.

Pursuant to Section 364.336, Florida Statutes, certificate holders must pay a minimum annual RAFs of \$50 if the certificate was active during any portion of the calendar year. Pursuant to Rule 25-4.0161(2), Florida Administrative Code, the form and applicable fees are due to the Florida Public Service Commission by January 30 of the subsequent year. Pursuant to Section 350.113(4), Florida Statutes, the RAFs forms, for the period of January 1, through December 31, are mailed to entities at least 45 days prior to the date that payment of the fee is due. All entities that apply for certification receive a copy of our rules governing Interexchange Carrier service.

The companies listed were mailed the 2002 Regulatory Assessment Fee (RAF) return notice and payment was due by January 30, 2003. On February 21, 2003, our Office of the General Counsel sent a delinquent notice via certified mail attempting collection of the 2002 RAF. The US Postal Service returned the certified receipts for all companies listed, which showed the delinquent notices were signed for and delivered.

We received correspondence from each of the companies, which requested removal from the register and cancellation of their respective tariffs. Our staff wrote each of the companies and explained that staff could not recommend a voluntary cancellation until each company complied with Sections 364.336 and 364.02, Florida Statutes.

These entities have not complied with Rule 25-24.474(2), Florida Administrative Code, which states:

(2) If a certificated company desires to cancel its certificate, it shall request cancellation from the Commission in writing and shall provide the following with its request:

(a) Statement of intent and date to pay Regulatory Assessment Fee.

(b) Statement of why the certificate is proposed to be canceled.

(c) A statement on treatment of customer deposits and final bills.

(d) Proof of individual customer notice regarding discontinuance of service.

Accordingly, since each of the entities' respective certificate remains active until each entity requests a voluntary cancellation pursuant to Rule 25-24.474(2), Florida Administrative Code, or we involuntarily cancel the certificate, the entities are responsible for the RAFs. As of the date of the vote, the entities continue to be in violation of our rules concerning RAFs.

For the reasons described above, pursuant to Rule 25-24.474(1)(b) and (c), Florida Administrative Code, we deny each of the entities' request for voluntary cancellation of their respective tariff and removal from the register for failure to comply with the provisions of Rule 25-24.474(2), Florida Administrative Code. However, we find it appropriate to involuntarily cancel the certificates listed below, effective on the dates shown, for failure to pay RAFs pursuant to Section 364.336, Florida Statutes, and Rule 25-4.0161, Florida Administrative Code.

<u>ENTITY'S NAME</u>	<u>CERTIFICATE NO.</u>	<u>EFFECTIVE DATE</u>
Commercial Communications Systems, Inc.	TI020	July 11, 2003
Promise-Net International, Ltd., Inc	TJ192	April 28, 2003
Norbel Telecom, Inc.	TJ449	April 1, 2002
Telecom New Zealand Communications (USA) Limited, Inc.	TJ525	May 22, 2003

Since these entities are no longer in business, there would be no purpose in requiring them to pay a penalty. By involuntarily canceling each of the entities' tariff and removing their name from the register, however, we would be able to track these entities should any reapply for registration with us in the future. The cancellation of the tariffs and removal from the register and the closing of the dockets in no way diminishes any of the entities' obligation to pay applicable delinquent RAFs, statutory late payment charges. The collection of the past due fees shall be referred to the Department of Financial Services for further collection efforts. If an entity's certificate is canceled in accordance with this Order, that entity shall immediately cease and desist providing intrastate interexchange services in Florida. We are vested with jurisdiction over this matter pursuant to Sections 364.336, 364.02, and 364.285, Florida Statutes.

Based on the foregoing, it is

ORDER NO. PSC-03-1468-PAA-TI
DOCKETS NOS. 030755-TI, 030786-TI, 030789-TI, 030943-TI
PAGE 5

ORDERED by the Florida Public Service Commission that the requests for voluntary cancellation of Interexchange Carrier tariffs and removal from the register listed herein are hereby denied. It is further

ORDERED that pursuant to Rule 25-24.474(1)(b) and (c), Florida Administrative Code, the Interexchange Carriers listed herein are hereby canceled, effective on the dates shown above, for failure to comply with Rule 25-24.474(2), Florida Administrative Code; Sections 364.336 and 364.02, Florida Statutes; and Rule 25-4.0161, Florida Administrative Code. It is further

ORDERED that the cancellation of an entity's tariff and removal from the register in no way diminishes the entity's obligation to pay applicable delinquent Regulatory Assessment Fees, and accrued statutory late payment charges. If any company listed in this Order has its respective tariff canceled and name removed from the register, and subsequently decides to reapply for registration as an intrastate interexchange telecommunications company, that company shall be required to first pay any outstanding penalties and RAFs, including statutory late payment charges. The collection of the past due fees shall be referred to the Department of Financial Services for further collection efforts. It is further

ORDERED that if an entity's certificate is canceled in accordance with this Order, that entity shall immediately cease and desist providing Interexchange Carrier services in Florida. It is further

ORDERED that any protest to the action proposed herein shall specify the entity or entities to which it applies. It is further

ORDERED that, if a protest is filed as to the involuntary cancellation of the tariff and removal from the register of any particular entity or entities, that protest shall not prevent the action proposed herein from becoming final with regard to the remaining entities listed in this Order. It is further

ORDERED that the provisions of this Order, issued as proposed agency action, shall become final and effective upon the issuance of a Consummating Order unless an appropriate petition, in the form

ORDER NO. PSC-03-1468-PAA-TI
DOCKETS NOS. 030755-TI, 030786-TI, 030789-TI, 030943-TI
PAGE 6

provided by Rule 28-106.201, Florida Administrative Code, is received by the Director, Division of the Commission Clerk and Administrative Services, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on the date set forth in the "Notice of Further Proceedings" attached hereto. It is further

ORDERED that in the event this Order becomes final, these dockets shall be closed.

By ORDER of the Florida Public Service Commission this 23rd Day of December, 2003.

BLANCA S. BAYÓ, Director
Division of the Commission Clerk
and Administrative Services

By: Kay Flynn
Kay Flynn, Chief
Bureau of Records and Hearing
Services

(S E A L)

VSM

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), Florida Statutes, to notify parties of any administrative hearing that is available under Section 120.57, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests

ORDER NO. PSC-03-1468-PAA-TI
DOCKETS NOS. 030755-TI, 030786-TI, 030789-TI, 030943-TI
PAGE 7

for an administrative hearing will be granted or result in the relief sought.

Mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing.

The action proposed herein is preliminary in nature. Any person whose substantial interests are affected by the action proposed by this order may file a petition for a formal proceeding, in the form provided by Rule 28-106.201, Florida Administrative Code. This petition must be received by the Director, Division of the Commission Clerk and Administrative Services, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on January 13, 2004.

In the absence of such a petition, this order shall become final and effective upon the issuance of a Consummating Order.

Any objection or protest filed in this/these docket(s) before the issuance date of this order is considered abandoned unless it satisfies the foregoing conditions and is renewed within the specified protest period.